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JUN 16 2009

OFFICE OF PETITIONS

In re Application of Peterson :
Application No. 10/672,003 : Decision on Petition
Filing Date: September 25, 2003 :
Attorney Docket No. PET-101 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Facts

The Office mailed a Notice of Allowance on March 19, 2007. The Notice of Allowance required payment of \$700 for the issue fee and \$300 for the publication fee. The Notice set a statutory period for reply of three (3) months.

An issue fee transmittal sheet and check for \$1,000 were filed June 25, 2007 (Certificate of Mailing date of June 19, 2009). The \$1,000 check was returned by unpaid by the bank. As a result, the application became abandoned as a matter of law on June 20, 2007.

A Notice of Abandonment was mailed July 27, 2007.

Decision

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The petition fails to satisfy item (1) above.

The amount due for a fee is based on the date the fee is paid in full. As of April 14, 2009, the fee required for the issue fee for a utility application was \$755 and the amount due for the publication fee was \$300. Therefore, petitioner owed a total of \$1,055 for the fees.

The required petition fee is \$810.

The processing fee required when a check has been returned unpaid by a bank is \$50.

The total of the fees above is \$1,915 (\$755 + \$300 + \$810 + \$50). However, the petition was accompanied by payment of \$1,815.

Petitioner may wish to file a request for reconsideration with payment of \$100.

A grantable petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the instant petition includes such a statement, the statement should also appear in any request for reconsideration. In other words, any request for reconsideration should include the following statement, or a similar statement: "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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